



## Special Notice Letter (SNL) & 104(e) Information Request Response Tracking

**South Dayton Dump**  
**WO# B5BN12182014**  
**Contract# EP-S5-14-01**

PRP Name: Monsanto Company and Pharmacia LLC ("the Companies") Date of Response 1: 2/11/2015 (Via email)  
Respondent Name(s): Krieg Devault (legal counsel) – Vicki J. Wright, Esq. Date of Response 2: 3/17/2015

1) Did the PRP request an extension?

Yes. (Note: Do not have a copy of the email in file)

2) If yes, to Question 1, what was the length of the extension requested?

In an email dated 2/11/2015, EPA granted an extension through 3/17/2015.

3) Has the PRP agreed to participate in formal negotiations with EPA? If no, explain PRP rationale. (Note: Negotiations concluded on April 22, 2015)

No. The Companies decline to negotiate a consent order to perform RI/FS or reimburse

EPA for costs related to the Site; however, the Companies remain open to negotiations

should new information come to light that link the Companies to the Site. The basis of

This basis of this decision is that no information has been located to suggest the

Companies "arranged for disposal of CERCLA hazardous substances" at the Site.

4) Has the PRP prepared a "good faith offer"? If so, what was proposed (i.e. finance RI/FS or conduct RI/FS)?

No.

5) Has the PRP agreed to reimburse EPA for costs incurred to date?

No.

6) Has the PRP agreed to voluntarily negotiate a consent order?

No.

7) **Is the PRP part of the steering committee (PRP group)?**

No.

8) **Did the PRP respond to questions posed in Enclosure 6? If yes, please see attached list of questions and summarize PRP responses for each question.**

Yes.

**Notes:**

As EPA limited the scope of the Information Request to 1941 to 1996, Monsanto Company (Monsanto) asserts that this date range eliminates the link between the Site and Monsanto as it was not incorporated until 2000. Pharmacia LLC had two facilities in the vicinity of the Site: Mound Lab (1948-1988) and Dayton Lab (1936-1992). All operations at Mound Lab were being conducted under a Department of Energy (DOE) contract, while some operations at the Dayton Lab related to DOE work. Due to contractual and confidentiality obligations to DOE, the Companies' response focused only on the non-DOE operations at the Dayton Lab. To obtain additional information relating to the DOE operations, the Companies provided points of contact at the DOE.

The Companies further note that a secondary document suggests that Pharmacia LLC sent materials to the Site in 1976 or 1977, but these materials were not Comprehensive Environmental Response, Comprehensive, and Liability Act (CERCLA) hazardous substances. Additionally, the Companies provided copies of depositions of Mr. Beal, Mr. Wurstner, and Mr. Hart who testified that Pharmacia LLC arranged for shipment of materials to the Site between 1977 and 1978, and that these materials were incinerated and not landfilled.

The Companies objected to the information requests on the grounds that they were overly broad assumptions of authority, the questions were overly broad in scope, and the vague and confusing nature of the definitions provided in the Request. The Companies also assert that the requests seek information that is protected by attorney-client privilege or attorney work product protection. The Companies requested that any contact with individuals identified in the response to the Request should be made through counsel for the Companies.

## QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these questions.

**Response: Monsanto Company and Pharmacia LLC (the Companies) identified Mary M. Shaffer, Assistant General Counsel for the Monsanto Company.**

2. Identify all documents consulted, examined or referred to in the preparation of the answers to these questions, and provide copies of all such documents.

**Response: The Companies provided documents responsive to this request as Attachment B. These documents included depositions of Mr. Beal, Mr. Wurstner, and Mr. Hart as Attachment A. The Companies provided the response to an earlier information request from February 21, 2006 as Attachment B.**

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons. Provide their current, or last known, address, telephone numbers, and e-mail address.

**Response: The Companies identified Mr. Thomas Beal, Mr. Alan Wurstner, and Mr. Richard Hart, all of whom were former employees of Pharmacia LLC.**

4. Provide names, addresses, telephone numbers, and e-mail addresses of any individuals, including former and current employees, who may be knowledgeable about Respondent's operations and hazardous substances handling, storage and disposal practices.

**Response: Refer to the Companies' responses to Questions 3 and 13.**

5. State the date(s) on which the Respondent sent, brought or moved drums and/or hazardous substances to the South Dayton Dump and Landfill (SDDL) Site and the names, addresses, telephone numbers, and e-mail addresses of the person(s) making arrangements for the drums and/or hazardous substances to be sent, brought or moved to the SDDL Site.

**Response: The Companies did not identify any additional responsive information related to the Site other than the information contained in the depositions.**

6. Did Respondent haul or send materials to SDDL in vehicles it owned, leased or operated? If yes, during what time periods did this occur? If no, how did Respondent transport materials to SDDL? Identify the hauler(s) and provide the addresses, telephone numbers, and e-mail addresses of these entities.

**Response: The Companies did not identify any additional responsive information related to the Site other than the information contained in the depositions.**

## PERMITS/REGISTRATIONS

7. List all federal, state and local permits and/or registrations and their respective permit numbers issued to Respondent for the transport and/or disposal of materials.

**Response:** Pharmacia LLC had the following permits and identification numbers for the Dayton Lab:

Date	Permit / ID No.	Permit Type	Issuing Entity
1/13/1977	MONS001870	Open Burning Permit	Regional Air Pollution Control Agency (RAPCA)
8/21/1979	MONS001873	Open Burning Permit	RAPCA
Unknown	OHD 004-855-292 (MONS001206)	USEPA ID Number	USEPA
12/27/1981	MONS001252-1262	Hazardous Waste Facility Installation and Operation Permit (#05-57-0433)	State of Ohio Hazardous Waste Facility Approval Board
7/30/1984	MONS001283-1298	Hazardous Waste Management Permit	USEPA

**Pharmacia LLC had the following permit and identification number for the Site:**

Date	Permit / ID No.	Permit Type	Issuing Entity
Undated	503	Open Burning Permit	Montgomery County Ohio General Health District

8. Which shipments or arrangements were sent under each permit? If what happened to the hazardous substances differed from what was specified in the permit, please state, to the best of your knowledge, the basis or reasons for such difference.

**Response:** The Companies did not identify any additional responsive information related to the Site other than what was provided in Mr. Beal's deposition.

9. Were all hazardous substances transported by licensed carriers to hazardous waste Treatment Storage and Disposal Facilities permitted by the U.S. EPA?

**Response:** The Companies did not identify any responsive information related to the Site.

10. List all federal, state and local permits and/or registrations and their respective permit numbers issued for the transport and/or disposal of wastes.

**Response: Refer to the Companies' response to Question 7.**

11. Does your company or business have a permit or permits issued under Resource Conservation and Recovery Act? Does it have or has it ever had, a permit or permits under the hazardous substance laws of the State of Ohio? Does your company or business have an EPA Identification Number, or an identification number supplied by the State Environmental Protection Agency? Supply any such identification number(s) your company or business has.

**Response: Refer to the Companies' response to Question 7.**

12. Identify whether Respondent ever filed a Notification of Hazardous Waste Activity with the EPA or the corresponding agency or official of the State of Ohio, the date of such filing, the wastes described in such notice, the quantity thereof described in such notice, and the identification number assigned to such facility by EPA or the state agency or official.

**Response: Pharmacia LLC submitted a Notification of Hazardous Waste Activity to EPA on August 15, 1980 (MONS001139-1218, 1206). The Companies did not identify any additional responsive information related to the Site.**

#### **RESPONDENT'S DISPOSAL/TREATMENT/STORAGE/RECYCLING/SALE OF WASTE (INCLUDING BY-PRODUCTS)**

13. Identify all individuals who currently have and those who have had responsibility for Respondent's environmental matters (e.g. responsibility for the disposal, treatment, storage, recycling, or sale of Respondent's wastes). Also provide each individual's job title, duties, dates performing those duties, supervisors for those duties, current position or the date of the individual's resignation, and the nature of the information possessed by such individuals concerning Respondent's waste management. For each individual identified in response to this question provide the current or most recent known address, telephone number and email address.

**Response: The Companies identified the following former employees of Pharmacia LLC who may have been responsible for environmental matters at Dayton Lab:**

- **Thomas Beal**
- **Kathy Rabbitt**
- **Jeffrey Klieve**
- **Leslie Woods**
- **Dunny Toy**
- **Darrell Sevy**

- **Randall White**

14. Describe the containers used to take any type of waste from Respondent's operation, including but not limited to:

- a. the type of container (e.g. 55 gal. drum, dumpster, etc.);
- b. the colors of the containers;
- c. any distinctive stripes or other markings on those containers;
- d. any labels or writing on those containers (including the content of those labels);
- e. whether those containers were new or used; and
- f. if those containers were used, a description of the prior use of the containers.

**Response:** According to Mr. Beal's deposition, "two partial pickup truck loads of 55-gallon drums from Dayton Lab" were taken to the Site "in 1977 or 1978." The drums contained small, lab sized glass bottles in vermiculite. The contents of the bottles were incinerated and the 55-gallon drums were returned to Dayton Lab. In the Companies' 2006 response, a document indicates "that less than 800 pounds of materials were shipped from Dayton Lab to the Site for landfilling in 1976/1977 in '100 lb sacks.'" No additional responsive materials to this request were identified.

15. For any type of waste describe Respondent's contracts, agreements, or other arrangements for its disposal, treatment, or recycling. Provide copies of all documents relating to the transportation or disposal of said waste, including correspondence and manifests. Include all correspondence and records of communication between Respondent and Cyril Grillot, Kenneth Grillot, Alcine Grillot, or Horace Boesch, Sr.

**Response:** Refer to the Companies' response to Question 14.

16. Provide copies of such contracts and other documents reflecting such agreements or arrangements.

- a. State where Respondent sent each type of its waste for disposal, treatment, or recycling.
- b. Identify all entities and individuals who picked up waste from Respondent or who otherwise transported the waste away from Respondent's operations (these companies and individuals shall be called "Waste Carriers" for purposes of this Information Request).
- c. If Respondent transported any of its wastes away from its operations, please so indicate and answer all questions related to "Waste Carriers" with reference to Respondent's actions.
- d. For each type of waste specify which Waste Carrier picked it up.
- e. For each type of waste, state how frequently each Waste Carrier picked up such waste.
- f. For each type of waste state the volume picked up by each Waste Carrier (per week, month, or year).
- g. For each type of waste state the dates (beginning & ending) such waste was picked up by each Waste Carrier.

- h. Provide copies of all documents containing information responsive to the previous seven questions.
- i. Describe the vehicles used by each Waste Carrier to haul away each type of waste including but not limited to:
  - i. the type of vehicle (e.g., flatbed truck, tanker truck, containerized dumpster truck, etc.);
  - ii. names or markings on the vehicles; and
  - iii. the color of such vehicles.
- j. Identify all of each Waste Carrier's employees who collected Respondent's wastes.
- k. Indicate the ultimate disposal/recycling/treatment location for each type of waste.
- l. Provide all documents indicating the ultimate disposal/recycling/treatment location for each type of waste.
- m. Describe how Respondent managed pickups of each waste, including but not limited to:
  - i. the method for inventorying each type of waste;
  - ii. the method for requesting each type of waste to be picked up;
  - iii. the identity of (see Definitions) the waste carrier employee/agent contacted for pickup of each type of waste;
  - iv. the amount paid or the rate paid for the pickup of each type of waste;
  - v. the identity of (see Definitions) Respondent's employee who paid the bills; and
  - vi. the identity of (see Definitions) the individual (name or title) and company to whom Respondent sent the payment for pickup of each type of waste.
- n. Identify the individual or organization (i.e., the Respondent, the Waste Carrier, or, if neither, identify such other person) who selected the location where each of the Respondent's wastes were taken.
- o. State the basis for and provide any documents supporting the answer to the previous question.

**Response (16a-o): Refer to the Companies' response to Question 14.**

- p. Describe all wastes disposed by Respondent into Respondent's drains including but not limited to:
  - i. the nature and chemical composition of each type of waste;
  - ii. the dates on which those wastes were disposed;
  - iii. the approximate quantity of those wastes disposed by month and year;
  - iv. the location to which these wastes drained (e.g. on-site septic system, onsite storage tank, pre- treatment plant, Publicly Owned Treatment Works (POTW), etc.); and
  - v. whether and what pretreatment was provided.

**Response (16p): The Companies did not identify information related to the Site.**

- q. Identify any sewage authority or treatment works to which Respondent's waste was sent.

**Response (16o): The Companies did not identify information related to the Site:**

- r. If not already provided, specify the dates and circumstances when Respondent's waste was taken to the SDDL Site, and identify the companies or individuals who brought Respondent's waste to the Site. Provide all documents which support or memorialize your response.

**Response (16r): Refer to the Companies' response to Question 14.**

**RESPONDENT'S ENVIRONMENTAL REPORTING:**

17. Provide all Resource Conservation and Recovery Act (RCRA) Identification Numbers issued to Respondent by EPA or a state for Respondent's operations.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**

18. Identify (see Definitions) all federal offices to which Respondent has sent or filed information about hazardous substance or hazardous waste.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**

19. State the years during which such information was sent/filed.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**

20. Identify (see Definitions) all state offices to which Respondent has sent or filed hazardous substance or hazardous waste information.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**

21. State the years during which such information was sent/filed.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**



22. List all federal and state environmental laws and regulations under which Respondent has reported to federal or state governments, including but not limited to: Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq., (TSCA); Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sections 1101 et seq., (EPCRA); and the Clean Water Act (the Water Pollution Prevention and Control Act), 33 U.S.C. Sections 1251 et seq.; Solid Waste and Infectious Waste Regulations, OAC 3745-27 (former rule EP-20); Licenses for Solid Waste, Infectious Waste Treatment, or Construction and Demolition Debris Facilities, OAC 3745-37 (former rule EP-33); Solid and Hazardous Wastes, ORC 3734-01 through 3734-11; Open Burning Standards, OAC 3745-19-03.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**

23. Identify the federal and state offices to which such information was sent.

**Response: Refer to the Companies' response to Question 7. Other than this information and information contained in Mr. Beal's deposition, the Companies did not identify any additional information responsive to this request.**